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JOHN F. DAVIS

IN THE

Supreme Court of the United States

OCTOBER TERM, 1961

No. 627

VINCENT D. TODISCO,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

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VINCENT D. TODISCO,

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Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Petitioner prays that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit affirming his conviction in the United States District Court, for violation of Section 201 of Title 18 of the United States Code.

Opinions Below.

No opinion was rendered in the District Court. The opinion of the Court of Appeals has not yet been reported. A copy of the opinion of the Court of Appeals is attached hereto in the Appendix to this Petition, and marked "Appendix 1."

Attached hereto and marked "Appendix 2" is the Order of Court of Appeals affirming the Judgment. Attached hereto and marked "Appendix 3" is the Order of the Court of Appeals denying Petition for Rehearing.

Jurisdiction.

Judgment of the Court of Appeals was entered on November 6, 1961. A Petition for Rehearing was denied on November 29, 1961. Jurisdiction of this Court is invoked pursuant to Title 28 of the United States Code, Section 1254, subsection 1.

Statutes Involved.

Section 201 of Title 18 of the United States Code provides as follows:

> "Whoever promises, offers, or gives any money or thing of value, or makes or tenders any check, order, contract, undertaking, obligation, gratuity, or security for the payment of money or for the delivery or conveyance of anything of value, to any officer, or employee or person acting for or on behalf of the United States, or any department or agency or to any officer or person acting for or on behalf of either House of Congress, or of any committee of either House, or both Houses thereof, with intent to influence his decision or action on any question, matter, cause, or proceeding which may at any time be pending, or which may by law be brought before him in his official capacity, or in his place of trust or profit, or with intent to influence him to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States, or to induce him to do or omit to do any act in violation of his lawful duty, shall be fined not more than three times the amount of such money or value of such

thing or imprisoned not more than three years, or both.

"This section shall not apply to violations of section 212 of this title."

Section 301 of Title 47 of the United States Code provides as follows:

"It is the purpose of this chapter, among other things, to maintain control of the United States over all the channels of interstate and foreign radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority, and no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license. No person shall use or operate any apparatus for the transmission of energy or communications or signals by radio (a) from one place in any Territory or possession of the United States or in the District of Columbia to another place in the same Territory, possession, or District; or (b) from any State, Territory or possession of the United States, or from the District of Columbia to any other State, Territory, or possession of the United States; or (c) from any place in any State, Territory, or possession of the United States, or in the District of Columbia, to any place in any foreign country or to any vessel; or (d) within any State when the effects of such use extend beyond the borders of said State, or when interference is caused by such use or operation with the transmission of such energy, communications, or signals from within said State to any place beyond its

borders, or from any place beyond its borders to any place within said State, or with the transmission or reception of such energy, communications, or signals from and/or to places beyond the borders of said State; or (e) upon any vessel or aircraft of the United States; or (f) upon any other mobile stations within the jurisdiction of the United States, except under and in accordance with this chapter and with a license in that behalf granted under the provisions of this chapter."

Section 318 of Title 47 of the United States Code provides as follows:

"The actual operation of all transmitting apparatus in any radio station for which a station license is required by this Chapter shall be carried on only by a person holding an operator's license issued hereunder and no person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission; Provided, however, That the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may waive or modify the foregoing provisions of this section for the operation of any station except (1) stations for which licensed operators are required by international agreement, (2) stations for which licensed operators are required for safety purposes, (3) stations engaged in broadcasting (other than those engaged solely in the function of rebroadcasting the signals of television broadcast stations), and (4) stations operated as common carriers on frequencies below thirty thousand kilocycles: Provided further, That

the Commission shall have power to make special regulations governing the granting of licenses for the use of automatic radio devices and for the operation of such devices."

Section 501 of Title 47 of the United States Code provides as follows:

"Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing, in this chapter prohibited or declared to be unlawful, or who willfully and knowingly omits or fails to do any act, matter, or thing in this chapter required to be done, or willfully and knowingly causes or suffers such omission or failure, shall, upon conviction thereof, be punished for such offense, for which no penalty (other than a forfeiture) is provided in this chapter, by a fine of not more than $10,000.00 or by imprisonment for a term not exceeding one year, or both; except that any person, having been once convicted of an offense punishable under this section, who is subsequently convicted of violating any provision of this chapter punishable under this section, shall be punished by a fine of not more than $10,000.00 or by imprisonment for a term not exceeding two years, or both."

Section 502 of Title 47 of the United States Code provides as follows:

"Any person who willfully and knowingly violates any rule, regulation, restriction, or condition made or imposed by the Commission under authority of this chapter, or any rule, regulation, restriction, or condition made or imposed by any international radio or wire communications treaty